



# Hobson & Co Terms of Sale



1. This auction will be held under the control of Paul Hobson Livestock (Pty) Limited t/a Hobson and Co. and its appointed auctioneer.
2. The term "livestock" shall include game.
3. All auctions conducted by Hobson and Co. and its auctioneers shall be conducted in accordance with these Rules of Auction and, where livestock is sold on credit, Hobson and Co's application for credit form and standard terms and conditions of sale, to the exclusion of any other terms, conditions or rules. In the event of a discrepancy between these Rules of Auction and Hobson and Co's application for credit form and standard terms and conditions of sale, these Rules of Auction shall apply. In the event that you are not agreeable to these Rules of Auction and, where applicable, Hobson and Co's application for credit form and standard terms and conditions of sale, do not participate in any way in any auction conducted by Hobson and Co. Participation shall constitute your acceptance hereof.
4. These Rules of Auction comply with the provisions of Section 45 and all relevant regulations to the Consumer Protection Act of 2008.
5. These Rules of Auction will only be read out at the auction if they were not available for inspection by the public at Hobson and Co's business premises prior to the auction.
6. Hobson and Co. is hereby appointed to act for and on behalf of the purchaser and seller as agent in accordance with Section 54 of the Value-Added Tax Act of 1991 in respect of all tax invoices, credit and/or debit notes in respect of all livestock offered at the auction or any costs of transport and insurances premiums paid for on behalf of the purchaser and the seller. The seller hereby authorises Hobson and Co. to collect the purchase price of the livestock sold on auction from the purchaser.
7. The seller warrants that there are no encumbrances on the livestock, that the livestock is the property of the seller and that the seller is legally entitled to dispose of the livestock.
8. Any livestock entered or offered for sale are subject to payment by the seller of the agreed commission, or in the absence of agreement, commission at Hobson and Co's standard rates charged from time to time. Hobson and Co's full commission shall become due and payable by the seller to Hobson and Co. on the written agreed date, or in the absence of agreement, upon the fall of the hammer, notwithstanding any breach on the part of the seller or the purchaser.
9. When livestock is put up for sale in lots, each lot is, unless there is evidence to the contrary, regarded as the subject of a separate transaction.
10. The sale by auction is not subject to a reserve price, unless the auctioneer specifically notifies otherwise. In the event that the auctioneer notifies the sale to be subject to a reserve price, the seller, the auctioneer or any other person on behalf of the seller or the auctioneer, may bid at the auction.
11. The auction shall take place at the date, time and venue specified above and will not be postponed or delayed to enable any member or group of the public to partake in the auction.
12. The auctioneer will only be obliged to give special reasons for the auction if such reasons are other than the voluntary sale of livestock.
13. Any person attending the auction to enter a bid must, prior to the auction, register as a purchaser on the bidders' roll and comply with the conditions set out in Chapter 1 of the regulations issued in terms of the Financial Intelligence Centre Act of 2001 (FICA). The purchaser must sign the bidders' roll/card.
14. Any person who attends the auction to enter a bid on behalf of another person must be duly authorised thereto by means of a written letter of authority from its principal and such person, together with his principal, must both register prior to the auction on the bidders' roll and provide all necessary information as required in Chapter 1 of the regulations issued in terms of FICA with regard to proof of identity. The bidders' roll/card must be signed by such a person and on behalf of its principal.
15. Where the principal is a company, the letter of authority shall appear on the letterhead of the company together with a certified copy of a resolution authorising the person to bid on behalf of the company (for purposes of this rule, any reference to a company will include any reference to juristic person including partnerships, trusts or incorporated entities).
16. Hobson and Co. shall provide all prospective bidders whose names appear in the bidders' record with a bidder number before he/she may bid, as well as a paddle or other device to which that number is attached in such a way that it is clearly visible to the persons present at the auction.
17. All registered bidders have a right of inspection of all livestock put up for sale and the auctioneer shall provide reasonable time and access prior to the start of the auction for such an inspection
18. The auction shall take place under the exclusive control of the auctioneer. The auctioneer shall be entitled to refuse to accept any bid if the auctioneer suspects that a bidder has not made a bona fide bid or is unable to pay the purchase price. On refusal of a bid under these circumstances, the livestock may immediately be re-auctioned.
19. In the event of any dispute arising between bidders and/or the auctioneer, the livestock in dispute shall, at the sole discretion of the auctioneer, be re-auctioned.
20. Should the auctioneer become aware of any fault on advertising material or any other publication or amendment to these Rules of Auction, the auctioneer will prior to the auction point out, and when necessary amend, such mistakes in the advertisement or publication.
21. Every bid shall constitute an offer to purchase the livestock for the amount of the bid, which the auctioneer may accept or reject in his/her discretion. The seller and the auctioneer are entitled, in their discretion, to withdraw the livestock from the sale prior to acceptance of any bids.
22. In the event that a purchaser allows another person to purchase on his/her buyers number, the registered purchaser shall be liable for payment of such purchases. No bid by an unregistered purchaser will be accepted and such person shall have no claim against the auctioneer or Hobson and Co. in such instance.
23. Subject to any reserve price and these Rules of Auction, the purchaser at any auction shall be the highest bidder indicated by the auctioneer by the fall of the hammer or by such other means as the auctioneer may select.
24. The sale is complete when the auctioneer announces its completion by the fall of the hammer, or in any other customary manner, and until that announcement is made, a bid may be retracted.
25. The livestock is sold "voetstoots".
26. Any information provided regarding the quality, breeding, age, date of insemination, condition, reproductive status, fertility or any information regarding health, production or mass or any other aspect of the livestock, is provided by the seller and any misrepresentation by the seller is without the cooperation or knowledge of the auctioneer and Hobson and Co. Any right of recourse as a result of such misrepresentation shall be against the seller and not the auctioneer or Hobson and Co.
27. Any bid made does not include VAT which, where applicable, will be added to the bidding price for which a VAT invoice will be issued.
28. Unless otherwise agreed in writing by Hobson and Co, all sales are for cash and the purchase price is payable immediately into Hobson and Co's trust account, on acceptance of the bid, for the benefit of the seller (less commission payable to Hobson and Co.). Where Hobson and Co. has agreed to grant the Seller credit terms in respect of the purchase price, the provisions of Hobson and Co's application for credit form and standard terms and conditions of sale shall apply.
29. Neither the purchaser nor the seller shall be entitled to apply set-off or to retain any monies owing by reason of any claim they may have against each other or Hobson and Co. with regards to any amount owing in terms hereof.
30. In the event of the seller already being indebted to Hobson and Co. at the time of the auction, the seller hereby irrevocably authorises Hobson and Co. to set off the purchase price due to the seller (minus commission) against the amounts due by the seller to Hobson and Co.
31. For cash sales, should the purchaser not pay the purchase price immediately, then the auctioneer may cancel the sale and treat the livestock as unsold which may again be presented on the auction for sale or be sold out of hand by means of liaison services, depending on the seller's mandate.
32. Ownership in the livestock will remain that of the seller until the purchase price (less commission) has been paid in full to the seller with the provision that all risk in and to the livestock passes to the purchaser at the fall of the hammer.
33. The livestock shall immediately after the fall of the hammer be deemed to be delivered to the purchaser at which time the risk will pass to the purchaser who will, at his own risk and cost, remove the livestock from the auction yard. For cash sales, removal of any livestock will not be allowed by the auctioneer until payment of the full purchase price by the purchaser.
34. Hobson and Co. has the right to cancel the auction, as well as any already complete sales, in the event of it being discovered that the livestock at the auction premises have a livestock and/or game disease. No party will have any recourse against Hobson and Co. in such instance.
35. Any party requiring permits, removal certificates, documentation of identification or any other statutory prescribed document will solely be responsible for obtaining same.
36. The bidders' record and the vendor roll are available for inspection at the business premises of Hobson and Co. during normal business hours, without charge.
37. Any instructions to an auctioneer with regards to the loading, transporting, choice of transport contractors, insurance or choice of insurers will be executed at the sole risk of the person requiring such services and the auctioneer and /or Hobson and Co. will not be held responsible for any losses (whether direct or indirect) which may be suffered as a result of giving effect to such instructions by Hobson and Co.
38. Any agreement entered into by Hobson and Co. with a transport company or insurer is done so in its representative capacity as agent of the seller or buyer (as the case may be). All transport costs or insurance premiums are therefore payable to Hobson and Co. in cash.
39. To the fullest extent permitted by law, Hobson and Co., its directors, shareholders, employees, contractors and agents will not be liable for any claim, loss or damage of whatsoever nature (including consequential losses) suffered by any person arising from, in connection with or as a result of:
  - 39.1. a bid by an unregistered bidder being rejected or cancelled;
  - 39.2. the presence of a livestock and/or game disease being discovered amongst the livestock at the auction premises;
  - 39.3. any misrepresentation by the seller regarding the quality, breeding, age, date of insemination, condition, reproductive status, fertility or any information regarding health, production or mass or any other aspect of the livestock;
  - 39.4. any failure by the seller or the purchaser to comply with their respective obligations under the sale or with these Rules of Auction;
  - 39.5. any instructions to an auctioneer with regards to the loading, transporting, choice of transport contractors, insurance or choice of insurers;
  - 39.6. any damage to or loss of the good whist under the control of Hobson and Co.;
  - 39.7. the withdrawal of livestock from the auction;
  - 39.8. any other cause not resulting from gross negligence on the part of Hobson and Co.
40. To the fullest extent permitted by law, the seller and the purchaser hereby jointly and severally indemnify and agree to hold Hobson and Co. harmless as against third parties in relation to any claim, loss or damage (including consequential losses), liability for which has been excluded in these Rules of Auction.
41. Both the seller and the buyer consent to the jurisdiction of the Magistrate's Court as contemplated in Section 45 of Act 32 of 1944 with regard to any action which Hobson and Co. may institute against the buyer or seller irrespective of the cause of action. Notwithstanding the aforesaid, Hobson and Co. will have the sole and absolute discretion to institute action in any High Court with appropriate jurisdiction.
42. Any legal costs that Hobson and Co. may have or will incur as a result of the non-compliance by the purchaser and/or seller with their obligations herein, shall be recoverable by Hobson and Co. on a scale as between attorney and own client (including tracing fees and collection commission).
43. A certificate issued by Hobson and Co. shall be prima facie proof of the amount owing by the purchaser.
44. No variation, amendment, novation or addition to these Rules of Auction, including this clause, will have the effect of the auctioneer and/or Hobson and Co. renouncing any of their rights in terms hereof.
45. No relaxation or indulgence by the auctioneer and/or Hobson and Co. must be interpreted as a waiver of rights in terms hereof. Such relaxation or indulgence must also not be interpreted as a novation hereof.
46. Should any of provision of these Rules of Auction be unlawful or become retrospectively unlawful, that unlawful provision shall be deemed to be amended to the extent and in the manner as is necessary to make it lawful or should such amendment be impossible, the unlawful provision shall be deemed devisable from the remainder of the provisions and pro non scripto.
47. Hobson and Co. reserves the right to amend these Rules of Auction in writing.



AP HOBSON  
Managing Director